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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/541,628	07/07/2005	Tomo Kishigami	1190-0609PUS1	8286
2292 7590 08/27/2009 BIRCH STEWART KOLASCH & BIRCH PO BOX 747 FALLS CHURCH, VA 22040-0747				
EXAMINER				
YODICEKAS, ANEETA				
ART UNIT		PAPER NUMBER		
2627				
NOTIFICATION DATE		DELIVERY MODE		
08/27/2009		ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

mailroom@bskb.com

Office Action Summary

Application No.

10/541,628

Applicant(s)

KISHIGAMI ET AL.

Examiner

Aneeta Yodichkas

Art Unit

2627

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 April 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-33 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4, 10, 11, 13-16, 20-23, 28, 29 and 31-33 is/are rejected.
- 7) ☒ Claim(s) 5-9, 12, 17-19, 24-27 and 30 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 3/9/09 has been entered.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-4, 10, 11, 13-16, 20-23, 28, 29 and 31-33 rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent Pub. No. 2003/0035355 A1 to *Morishima*.

As to **claims 1 and 13**, *Morishima* discloses an optical recording device with an optical pickup having an optical system for recording and reproducing and the method comprising the steps of: reading recommended write strategy parameters and recommended asymmetry value from an optical recording medium on which the recommended write strategy parameters and recommended asymmetry value have been recorded (Fig. 1-4, paragraph 0044, lines 1-12, paragraph 0048, lines 1-6), where the recommended write strategy and asymmetry values that are stored on the disc are

retrieved in step (S3); determining a write strategy and an asymmetry value to be used in recording, based on the recommended write strategy parameters and the recommended asymmetry value and characteristics of the optical system of the optical pickup of the optical recording device used in recording (Fig. 2, paragraph 0042, Fig. 4, paragraph 0046, lines 1-14), where the flow chart in Fig. 2 shows how a write strategy and asymmetry are determined; and determining an optimal recording power based upon the recommended write strategy parameters and the asymmetry value thus determined (Fig. 2-4, paragraph 0044), where the recommended write and asymmetry value are stored on the disc and based on their values, the optimal power is determined as shown in the steps in Fig. 2; and writing to the optical recording medium by use of the optical recording device, using the write strategy and the asymmetry value optimal recording power thus determined (Fig. 2, paragraph 0046, lines 22-25), where in step (S7) the optimal recording power is determined.

As to **claims 2, 14, 21 and 32**, *Morishima* discloses the optical recording method and device, wherein: the write strategy is a multiple-pulse type of write strategy (Fig. 12, paragraph 0060), where the graph shows a multi-pulse write strategy; and the step of determining determines a leading pulse width of the write strategy for recording each mark, based on a ratio of a recommended leading pulse width parameter of the write strategy for recording each mark included in the recommended write strategy parameters with respect to the square of the recommended leading pulse width parameter of the write strategy for recording the shortest mark included in the recommended write strategy parameters (Fig. 6-7C, paragraph 0049), where several

recording strategies (STR1-STR3...) with different pulse widths are recorded for testing and the best strategy is chosen.

As to **claims 3, 15, 22 and 33**, *Morishima* discloses the optical recording method and device, wherein said step of determining is carried out by a computation using a formula predetermined for the optical recording device used in recording (Fig. 6-7C, paragraphs 0049-0050), where the formula determining the recording strategy is shown.

As to **claims 4, 16 and 23**, *Morishima* discloses the optical recording method and device, wherein in regard to the write strategy for recording each mark of the write strategy, the leading pulse width that minimizes reproducing jitter is determined experimentally, a formula is generated such that the experimentally determined leading pulse width is the result of a calculation or a value approximating the result of the calculation, and the generated formula is used in said step of determining (Fig. 1-4, paragraph 0044), where jitter is determined based on the error rate (C1) and the asymmetry value (B) and when the error rate is judged, it can be determined which write strategy is appropriate.

As to **claims 10 and 28**, *Morishima* discloses the optical recording method, wherein: the step of reading reads a recommended wavelength value from the optical recording medium (Fig. 1-4, paragraphs 0042-0044), where the recommended wavelength is in the recommended write strategy stored on the disc, which is retrieved in step (S2); and the step of determining performs a determination based on the recommended wavelength value and the wavelength of a laser beam of the optical

recording device used in recording (Fig. 2 and 6, paragraph 0052), where in steps (S9-S14) the write strategy is determined, which includes the wavelength.

As to **claims 11 and 29**, *Morishima* discloses the optical recording method, wherein: the step of reading reads a recommended asymmetry value (Fig. 1-4, paragraph 0044), where the recommend asymmetry value is read from the disc; the determining step calculates an asymmetry value for use in recording based on the recommended asymmetry value and the numerical aperture of the objective lens of the optical recording device used in recording (Fig. 2, 4 and 5, paragraph 0046), where the asymmetry value is calculated to reach a target asymmetry value (Bt); and the step of writing performs writing by use of the calculated asymmetry value (Fig. 2, paragraph 0046), where writing occurs in step (S7) based on the calculated asymmetry value.

As to **claims 20 and 31**, *Morishima* discloses an optical recording device with an optical pickup having an optical system for recording and reproducing and method comprising the steps of: reading recommended write strategy parameters from an optical recording medium on which the recommended write strategy parameters including recommended pulse value-width value have been recorded (Fig. 1-4, paragraph 0044, lines 1-12, paragraph 0048, lines 1-6), where the recommended write strategy are stored on the disc are retrieved in step (S3); determining a write strategy including leading pulse width parameter to be used in recording, based on the recommended pulse width value and characteristics of the optical system of the optical pickup of the optical recording device used in recording (Fig. 1 and 2, paragraph 0041), where the flow chart in Fig. 2 shows how the write strategy is determined and the write

strategy includes the pulse width; and writing to the optical recording medium by use of the optical recording device, using the write strategy thus determined (Fig. 2, paragraph 0046, lines 22-25), where in step (S7) the optimal recording power is determined.

Claims 5-9, 12, 17-19, 24-27 and 30 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Aneeta Yodichkas whose telephone number is (571) 272-9773. The examiner can normally be reached on Monday-Thursday 8-5, alternating Fridays, 8-4.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrea Wellington can be reached on (571) 272-4483. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Jorge L Ortiz-Criado/
Primary Examiner, Art Unit 2627

/A.Y./
8/19/09